IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

WP(C).No. 18537 of 2007(F)

PETITIONER:

P.K.SUBHAGAN, POTTAKKAL HOUSE,
PALLIPPURAM VILLAGE, CHERTHAL.

BY ADV. SRI.BABU CHERUKARA

RESPONDENTS:

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1. THE GENERAL MANAGER,
KERALA STATE FINANCIAL ENTERPRISES LTD.,
BHADRATHA, CHEMBOOKKAVU, THRISSUR.

2. THE BRANCH MANAGER,
KERALA STATE FINANCIAL ENTERPRISES,
MAIN BRANCH, CHERTHALA.

3. SPECIAL DEPUTY TAHSILDAR(R.R),
K.S.F.E.LIMITED, ALAPPUZHA.

BY ADV. SRI.M.SASINDRAN, SC, K.S.F.E., LTD.
GOVERNMENT PLEADER SMT. N. SUDHA DEVI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 18537 of 2007

Dated, this the 2nd day of July, 2007

J U D G M E N T

Heard learned counsel for the Petitioner and the learned Standing Counsel for KSFE. The petitioner joined a chitty in 1997 and took a loan of Rs. 50,000/- in 1998. The chitty subscriptions were paid until August 2002, when it was prized. The prize amount should have been adjusted against loan amount, which is the condition of the loan itself. However, when default was committed in payment of chitty subscriptions, the prize money was first adjusted towards chitty subscriptions. This led to accumulation of interest in the loan account. In similar cases, this Court has held that the prize money, which is a credit balance available should have been set off against loan account and interest would be charged only on subscription arrears of the chitty and on balance loan amount, if any outstanding after adjustment. In the circumstances, WP(C) is disposed of directing KSFE to reverse the interest debited by adjusting the prize money against the loan account as and when prize money was payable to the petitioner, had security been furnished, and then charge interest on the chitty

subscription amounts and on balance loan amount, that fell due. Respondents can recover the balance liability after readjusting liability as above. Revised statement should be given to the petitioner before proceeding for recovery. Recovery will be kept in abeyance for six weeks from now and thereafter recovery can be continued based on revised demand as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg